

## **REMARKS/ARGUMENTS**

### **Election of Inventions**

The Examiner has requested an election of a single invention for prosecution on the merits. The Examiner has identified the following inventions:

Invention I    Claims 1-29, classified in class 623, subclass 1.42;

Invention II    Claims 30 and 31, drawn to a method of making a microdevice, classified in class 427, subclass 534;

Invention III    Claim 32, drawn to a process treating a device by lithography, classified in class 430, subclass 281.1.

The Examiner states that inventions II and III are unrelated as not disclosed as being capable of use together and having different modes of operation, function or effects. The applicants do not traverse this requirement and, therefore, claim 32 is cancelled, with applicants reserving the right to present it in a further prosecution.

The Examiner also alleges that inventions I and II are related as process for making and the product made. The Examiner states that the product claimed may be made using another materially different process, i.e one that uses polymer instead of metal. The applicants maintain that this restriction requirement is improper because only one claim, claim 29, recites the presence of metal in the device and even then allows for only a portion of the device to be metal. All remaining claims allow for the use of any number of materials, including metal or polymer. Therefore, the applicants traverse this requirement.

Finally, the Examiner indicated that Inventions I and III are related as process of making and product made. In view of the cancellation of the claim of Invention III, noted above, this aspect of the restriction requirement is now believed to be moot.

The Examiner also indicated that the application contains claims directed to six patentably distinct species:

Species A: Fig. 2

Species D: Fig. 5

Species B: Fig. 3

Species E: Fig. 6

Species C: Fig. 4

Species F: Fig. 7

The Examiner indicated that no claims were generic. The applicants traverse this finding. Claims 1-11, 14, 15 and 26-29 contain no limitations that are specific to any of these species. Therefore, the applicants maintain that claims 1-11, 14, 15 and 26-29 are generic for all species.

While the applicants traverse the restriction requirement, the applicants recognize the requirement to elect an invention for prosecution, and elect Invention I, Species A. The Applicants maintain that the claims directed to Species A are claims 12 and 13. Accordingly, claims 16-25 and 30-31 have been withdrawn from consideration.

Claims 1-32 were pending at the time of the mailing of the outstanding Office Action. By this amendment, claim 32 has been cancelled without prejudice or disclaimer as to the subject matter contained therein. Claims 16-25 and 30-31 have been withdrawn. No new claims have been added.

The outstanding Office action was mailed on 4 March 2005. The Examiner set a shortened statutory period for reply of 1 month from the mailing date. Therefore, no petition for an extension of time or accompanying fee is believed to be due in making this response. However, in the event that a fee for the filing of his response is insufficient, the Commissioner is authorized to charge any fee deficiency or to credit any overpayment to Deposit Account 15-0450.

Respectfully submitted,



John J. Cunniff  
Reg. No 42,451  
Hahn Loeser + Parks LLP  
One GOJO Plaza, Suite 300  
Akron, OH 44311

Attorney for Applicants